IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

MFA.No. 977 of 2002()

OPMV.251/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA

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APPELLANT: PETITIONER

K.M.SEBASTIAN S/O. K.M.MATHEW,
AGED 21 YEARS, RESIDING AT KALLUKAYIL HOUSE,
CHERUKATTOR POST, MANANTHAVADY TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: RESPONDENTS

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* 1. P.K.ABDUL GAFOOR S/O. IBRAYI HAJI,
AGED 20 YEARS, PUNATHIKANDY HOUSE,
ANCHUKUNNU POST, MANANTHAVADY TALUK, WAYANAD
DISTRICT (STRUCK OFF)
(DRIVER CUM OWER OF JEEP NO.K1-11B/3255, D.L.NO.
NOT KNOWN).

(THE NAME OF THE FIRST RESPONDENT IS
STRUCK OFF FROM THE PARTY ARRAY AT
THE RISK OF THE APPELLANT/PETITIONER, AS
PER ORDER DATED 22.10.2007 IN I.A.No.2415/2007)

2. BRANCH MANAGER, M/S.UNITED INDIA
INSURANCE CO.LTD., CEROOTY ROAD, CALICUT.
(INSURER OF KL-11B/3255 JEEP POLICY NO.NOT KNOWN).

BY ADV. SRI.A.A.MOHAMMED NAZIR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No.977 of 2002

Dated this the 2nd November, 2007.

J U D G M E N T

Heard. Admitted. Adv.Sri.A.A.Mohamed Nazir takes notice for 2nd respondent Insurer. Notice to the driver-cum-owner dispensed with. The appeal itself is heard and disposed of.

2. Appellant sustained injuries in a motor vehicle accident on 24.3.1994. He filed the original petition claiming compensation impleading the driver-cum-owner and also the insurer. The driver-cum-owner did not contest the matter. The Insurer alone contested the matter. Negligence alleged against the driver and quantum of compensation awarded were disputed. The Tribunal found that the accident occurred due to the negligence of the first respondent. It awarded an amount of Rs.1400/= as compensation. Complaining that quantum of compensation awarded is too low, petitioner himself has filed this appeal.

3. Appellant sustained the following injuries:-

"(i) Abrasion 2 x 1 cm. below right eye.

(ii) Abrasion 1 x 1 cm. on right elbow.

(iii) Small abrasion on the back of right palm.

(iv) Small abrasion on right hand, and,

(v) Tenderness over left knee."

Appellant underwent treatment as an inpatient for seven days. Considering all aspects of the matter, I am of the view that the Tribunal ought to have awarded an amount of Rs.5000/= more as compensation.

In the result, appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.5000/= as compensation from the second respondent, Insurance Company, with 6% interest from the date of petition, till the date of realisation. The 2nd respondent is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No.977 of 2002

J U D G M E N T

Dated:2nd November, 2007.